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11
12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**
14

15 KATHLEEN HANNI, individually and on
behalf of all others similarly situated,

16 Plaintiff,

17 vs.

18 AMERICAN AIRLINES, INC., and DOES 1
19 through 20, inclusive,

20 Defendants.
21

CASE NO. C08-00732CW

**AMENDED NOTICE OF MOTION AND
MOTION TO DISMISS PLAINTIFF'S
COMPLAINT BY DEFENDANT
AMERICAN AIRLINES, INC.**

Fed. R. Civ. Pro. 9(b) & 12(b)(6)

Date: March 27, 2008

Time: 2:00 p.m.

Courtroom: 2, 4th Floor

22
23 PLEASE TAKE NOTICE that on March 27, 2008, at 2:00 p.m. in the courtroom of the
24 Honorable Claudia Wilken at the United States Courthouse located at 1301 Clay Street, Oakland,
25 California, defendant American Airlines, Inc. ("American"), will and hereby does move pursuant
26 to Federal Rules of Civil Procedure 12(b)(6) to dismiss plaintiff's Class Action Complaint for
27 False Imprisonment, Intentional Infliction of Emotional Distress, Negligence, Breach of Contract,
28 and Intentional Misrepresentation and prayer for relief (the "Complaint") for failure to state a

1 claim upon which relief can be granted.

2 American makes this motion on the grounds that:

3 (1) Field preemption by the Federal Aviation Act of 1958 ("FAA") and its implementing
4 Federal Aviation Regulations ("FARs"), which preempt the field of passenger health and safety
5 onboard commercial aircraft;

6 (2) Express preemption under the Airline Deregulation Act ("ADA"), which prohibits
7 states from "enact[ing] or enforc[ing] a law, regulation, or other provision having the force and
8 effect of law related to a price, route, or service of an air carrier," 49 U.S.C. § 41713(b)(1);

9 (3) The Complaint fails to state a claim upon which relief can be granted pursuant to
10 Texas state law; and

11 (4) Plaintiff's alleged fraud claim fails to meet the particularity requirements of Fed. R.
12 Civ. P. 9(b).

13 This motion is based on this Notice of Motion and Motion, the Memorandum of Points and
14 Authorities, and (Proposed) Order filed herewith, and upon other such matters as may be presented
15 to this Court.

16 DATED: February 20, 2008

COOPER, WHITE & COOPER LLP

17 By 

Jie-Ming Chou

Attorneys for Defendant American Airlines, Inc.

PROOF OF SERVICE

I am a resident of the State of California. I am over the age of eighteen years, and not a party to this action. My business address is 201 California Street, Seventeenth Floor, San Francisco, California 94111-5002.

On February 20, 2008, I served the following document(s):

AMENDED NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT BY DEFENDANT AMERICAN AIRLINES, INC.

on each of the parties listed below at the following addresses:

Law Offices of Paul S. Hudson P.C.
4411 Bee Ridge Road #274
Sarasota, Florida 34233

David G. Ramos, Esq.
Law Offices of David G. Ramos
3266 Villa Lane
Napa, California 94558

BY FIRST CLASS MAIL: I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified above, as to each of the parties identified in the above service list, a true copy of the above-referenced document(s) were placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid; and on that same date that envelope was placed for collection in the firm's daily mail processing center, located at San Francisco, California following ordinary business practices.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 20, 2008, at San Francisco, California.



Melissa Batchelder